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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,991	01/29/2004	Frank C. Hudetz	150-061D	4564
24002	7590	09/29/2006	EXAMINER	
ANTHONY R. BARKUME 20 GATEWAY LANE MANORVILLE, NY 11949			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/768,991

Applicant(s)

HUDETZ ET AL.

Examiner

Yogesh C. Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Preliminary Amendment***

1. Applicant's Preliminary Amendment received on 1/29/2004 is acknowledged and entered. Originally filed claims 1-32 are canceled and new claims 33-76 have been filed. Currently claims 33-76 are pending for examination.

Amendments to Specification filed on 1/29/2004 are acknowledged and entered.

Amendment to Title is acknowledged and entered.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.1. Claims 33 and 55 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 36 and 71 of U.S. Patent No. 6,199,048 in view of US Patent 5,550,976 to Henderson et al, hereinafter referred to Henderson. Claims 33 and 55 of the instant application include limitations, that is, "using a computer device and reading a data carrier modulated with an index, extracting a pointer from a server's database as a function of the index and using that pointer to establish communication with remote computer identified thereby " which were the reasons of Allowance for claims 1, 36 and 71 of the US Patent 6,199,048. The difference between the limitations of claims 33 and 55 of instant application and with the limitations of claims 1, 36 and 71 of the Patent '048 is that claims 33 and 55 recite extracting the pointer from two computers. However, managing and retrieving data/information from more than one computers on a peer to peer network, was well known to one of an ordinary skilled in the art at the time of the applicant's invention (see Henderson at least, col.1, lines 20-30, col.4, lines 20-24 and col.6, lines 1-46).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 33-76 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claim recites the limitation, “ *the requesting computer communicating with routing computers in the plurality of computers, said routing computers each having a table stored in memory, each table comprising a plurality of records, each of said records comprising at least part of an association of an index to a pointer which identifies an information computer on the network, by transmitting said machine-read index to at least one of said routing computers and receiving pointer information from said routing computers that correlates the machine-read index to a pointer which identifies an information computer on the network*” , which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the applicant’s disclosure, see Fig.1 and Fig.5, the requesting computer is the local host, “28” which accesses a database “60”, which is either a part of the local host or resides on a service provider computer “22” or on a search engine and is accessed by loading the “Query page” allowing the user to enter a query in the form of a data carrier modulated with an index [ Note that this database can reside on two computers. As demonstrated above accessing data from more than one computers via a peer- to-peer network was well-known at the time of the applicant’s invention.] Once the query is entered in the form an UPC number the database retrieves the records including an URL and is presented to the user to access the information computer identified by that URL. However, the applicant’s disclosure does not explicitly disclose or state that the host computer 28 accesses routing computers such that routing computers each having a table stored in memory, each table comprising a plurality of

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records, each of said records comprising at least part of an association of an index to a pointer which identifies an information computer on the network, by transmitting said machine-read index to at least one of said routing computers and receiving pointer information from said routing computers that correlates the machine-read index to a pointer which identifies an information computer on the network.

Since all other claims 34-76 include the above limitation they are also rejected for the same reasons.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

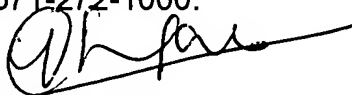
(i) US Patent 5,640,193 to Wellner teaches an apparatus and method using a computing device to scan machine-readable marks/codes on an object, communicating a request signal with the object code representing the same marks/codes to a user interface and the interface transmitting the request signal to a server with a request command including the object code representing the marks/codes and wherein on reading and identifying the object code the server, either itself or via other servers provides the necessary service to the user (see at least Abstract , Figs.2-3 and col.2, line 22-col.6, line 46).

(ii) US Patent 5,657,233 to Cherrington et al. (see at least Abstract, Fig.10 and col.20, lines 19-67) discloses retrieving data/information from more than one databases/computers in a peer-to-peer network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG